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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,735	06/27/2003	Donald J. Polak	03-087	7698

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COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH, PA 15222

EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,735

Applicant(s)

POLAK ET AL.

Examiner

Alfred Joseph Wujciak III

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3632

DETAILED ACTION

This is the final Office Action for the serial number 10/608,735, ONE-PIECE MOLDED CLAMP, filed on 6/27/03.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 11/19/04 was filed after the mailing date of the first office action on 7/1/04. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 4,669,688 to Itoh et al.

Itoh et al. teaches one piece molded clamp (figure 1) comprising a first jaw (4) having an inward facing surface, an outward facing surface, a first end and a second end. The clamp includes a second jaw (5) unitarily formed with the first jaw, the second jaw having an inward facing surface, an outward facing surface, a first end and a second end. The outward facing surface of the second jaw comprises at least one notch (21). The first jaw comprises a tension strap (7) having at least one through-aperture through (26) releasably engaged with at least one

Art Unit: 3632

notch of the second jaw. The tension strap extends from the inward facing surface of the first jaw. The second ends of the first and second jaws further comprise means (12) to mount the clamp on a surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of US Patent # 6,164,604 to Cirino et al.

Itoh et al. teaches the first and second jaws having inward facing surfaces but fails to teach the inward facing surfaces having at least one protrusion thereon. Cirino et al. teaches the inward facing surfaces having at least one protrusion thereon (12). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added protrusion to Itoh et al.'s inward facing surfaces as taught by Cirino et al. to prevent cable from rotating within the first and second jaws.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of US Patent # 4,766,651 to Kobayashi et al.

Itoh et al. teaches the surface but fails to teach the surface is a body of a vehicle. Kobayashi et al. teaches the surface (S) is the body of vehicle. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used Itoh et al.'s clamp

Art Unit: 3632

on surface of vehicle as taught by Kobayashi et al. to provide storage for cable inside of the vehicle without interfering other object.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of US Patent # 5,930,872 to McBride et al.

Itoh teaches the clamp but fails to teach the clamp is made of a polymer. McBride et al. teaches the clamp (10) is made of a polymer. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Itoh's clamp material to polymer as taught by McBride et al. to provide designer's preference of material to be used for clamping an object.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of US Patent # 6,496,094 to May III.

Itoh et al. teaches the clamp but fails to teach the clamp is made of rubber. May III teaches the clamp (12) is made of rubber. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Itoh's clamp material to rubber as taught by May III to provide designer's preference of material to be used for clamping an object.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh et al. in view of US Patent # 3,827,093 to Davis.

Itoh et al. teaches the clamp but fails to teach the clamp is made of synthetic rubber. Davis teaches the clamp (18) is made of rubber. It would have been obvious for one of ordinary

Art Unit: 3632

skill in the art at the time the invention was made to have modified Itoh's clamp material to synthetic rubber as taught by Davis to provide designer's preference of material to be used for clamping an object.

Response to Arguments

Applicant's arguments filed 9/27/04 have been fully considered but they are not persuasive.

With respect to applicant's argument on page 6 stating that Itoh et al. does not disclose a clamp having a first and a second jaw and a tension strap unitarily formed with the first jaw. The examiner disagrees with the applicant because Itoh et al. clearly shows the clamp having the first (4) and second (5) jaws. The tension strap (7) with at least one through-aperture (26) is formed on the first jaw for attaching the second jaw's notch (21).

On page 7 of applicant's argument stating that "Itoh et al. do not disclose the dual-jaw design of applicant's invention and that the examiner mistakenly identifies Itoh et al. as disclosing a first 4 and a second 5 jaw." The applicant disagree that Itoh et al. teaches that the first jaw comprises "a tension strap 7 having at least one through-aperture through 26 releasably engaged with at least one notch of the second jaw". The examiner disagrees with the applicant because Itoh et al. shows that element 4 and 5 are shaped as jaw and they function as jaw. Itoh et al. shows and explained in the specification (col. 4, lines 1-68) that the strap (7) having through-aperture (26) for releasably engaged with at least one notch (21) of the second jaw for retaining an object within the first and second jaws.

Art Unit: 3632

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner used Cirino et al.'s reference with protrusion to modify Itoh et al.'s inward facing surface to prevent cable from rotating within the first and second jaws.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner used Kobayashi et al.'s invention with surface of vehicle to modify with Itoh et al.'s invention to provide support for cable inside of the vehicle.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Art Unit: 3632

In this case, the examiner used McBride et al.'s clamp with polymer to modify Itoh et al.'s material with polymer to reduce cost in manufacturing process and increase the life stress for the clamp.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the examiner used May III.'s clamp with rubber to modify Itoh et al.'s clamp material to rubber to reduce cost in manufacturing process and increase the life stress for the clamp.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the examiner used Davis's clamp with synthetic rubber to modify Itoh et al.'s material with rubber to reduce cost in manufacturing process and increase the life stress for the clamp.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

Art Unit 3632

ATW

12/15/04



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER